

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN B. ROBBINS, JUDGE

DIVISION II

CA 06-1156

SEPTEMBER 12, 2007

HOWARD E. DAVIS

APPELLANT

APPEAL FROM THE COLUMBIA
COUNTY CIRCUIT COURT
[NO. E97-387-3]

V.

OFFICE OF CHILD SUPPORT
ENFORCEMENT

APPELLEE

HONORABLE EDWIN A. KEATON,
JUDGE

AFFIRMED

Howard E. Davis appeals from an order increasing his child-support obligation regarding his son, Howard, Jr., who was born May 15, 1997, and has remained in the custody of his mother, Lori Brown. On March 31, 1998, the trial court entered an order requiring Mr. Davis to pay \$59.00 per week in child support. The appellee herein, Office of Child Support Enforcement, filed a motion on December 2, 2005, to increase child support based on Mr. Davis's increased income. On June 12, 2006, the trial court entered an order increasing Mr. Davis's child-support obligation to \$96.00 per week. Mr. Davis challenges that order in this appeal, arguing that the trial court erred in failing to reduce the award of child support on account of his custody and support of two of his other children. We affirm.

Mr. Davis was the only witness to testify at the hearing on the appellee's motion. Mr. Davis indicated that he is presently supporting four children. In addition to paying support for Howard, Jr., Mr. Davis pays court-ordered child support of \$64 per week for another child. Mr. Davis has custody of two of his children, who are ages fifteen and eleven. Mr. Davis is not married, and he has never requested child support from the mothers of the children who live with him. However, he acknowledged that the mothers could help him support those two children.

Both parties submitted documentation regarding Mr. Davis's income. From these exhibits, and taking into account proper deductions including the presently paid court-ordered support of \$64 for another dependent, the trial court determined Mr. Davis's weekly income to be \$504.81 for child-support purposes. Applying that amount to the weekly family support chart, the trial court set appellant's child-support obligation for Howard, Jr., at \$96.00 per week. In setting the child support at this amount, the trial court declined appellant's invitation to reduce his child support in consideration of his support for the two children who live with him. The trial court's order being appealed recites that \$96.00 per week is a "reasonable sum" for the obligated parent to begin paying.

On appeal, Mr. Davis does not dispute the trial court's calculation of his income for child-support purposes. However, he assigns error in the trial court's failure to deviate downward from the amount set forth in the child support chart. He relies on Administrative Order No. 10, Section V(b)(7), which provides that a factor that may warrant a deviation from the family support chart includes, "The support required and given by a payor for dependent

children, even in the absence of a court order.” Mr. Davis submits that such a deviation was appropriate in this case as a result of his custody and support of two other children. Mr. Davis cites two cases where this court affirmed a trial court’s decision to make a downward child-support adjustment where the payor had additional dependents. See *Guest v. San Pedro*, 70 Ark. App. 389, 19 S.W.3d 58 (2000); *Waldon v. Waldon*, 34 Ark. App. 118, 806 S.W.2d 387 (1991).

We review equity cases *de novo*, and we will not reverse a finding of fact by the trial court unless it is clearly erroneous. *McWhorter v. McWhorter*, 346 Ark. 475, 58 S.W.3d 840 (2001). In a child-support determination, the amount of child support lies within the sound discretion of the trial court. *Ford v. Ford*, 347 Ark. 485, 65 S.W.3d 432 (2002). As a rule, when the amount of child support is at issue, we will not reverse the trial court absent an abuse of discretion. *Scroggins v. Scroggins*, 302 Ark. 362, 790 S.W.2d 157 (1990).

We hold that the amount of child support set by the trial court did not constitute an abuse of discretion. Arkansas Code Annotated section 9-12-312(a)(2) (Repl. 2002) provides:

In determining a reasonable amount of support, initially or upon review to be paid by the noncustodial parent, the court shall refer to the most recent revision of the family support chart. It shall be a rebuttable presumption for the award of child support that the amount contained in the family support chart is the correct amount of child support to be awarded. Only upon a written finding or specific finding on the record that the application of the support chart would be unjust or inappropriate, as determined under established criteria set forth in the family support chart, shall the presumption be rebutted.

While the above provision gives a trial court authorization to deviate from the support chart upon making specific written findings, the trial court in the instant case did not find

application of the support chart to be unjust or inappropriate, and this was not reversible error. The amount specified in the chart is presumed to be reasonable. *Akins v. Moefield*, 355 Ark. 215, 132 S.W.3d 760 (2003). Mr. Davis testified that he has custody of two children, but there was little presented regarding the attendant financial obligations. Moreover, Mr. Davis elected not to pursue child support from the respective mothers of these two children. In light of appellant's support of his other children we may have affirmed a deviation from the chart amount had the trial court elected to do so, but given our standard of review we are compelled to affirm the trial court's finding that Mr. Davis failed to rebut the presumption that the \$96.00 in weekly support as prescribed by the chart was reasonable.

Affirmed.

GLOVER and BAKER, JJ., agree.